

**Applicant:** Richard B. Himmelstein  
**Application No.:** 09/666,725

## **REMARKS**

### Status of the Application

Claims 1-4 and 6 are pending in the present application. Claim 1 has been amended and is the only independent claim in the present application.

Claims 1-4 and 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0091611 to Minton (hereinafter "Minton") in view of U.S. Patent Application Publication No. 2002/0013750 to Roberts et al. (hereinafter "Roberts") and further in view of U.S. Patent No. 5,857,174 Dugan (hereinafter "Dugan").

In the Office Action preceding the Advisory Action (see paragraph 4 of the Office Action), the Examiner states (in summary) that Minton teaches a bartering system but fails to teach an inventive concept wherein a class of items includes real property and automatically initiating a transfer of the deed of the real property. The Examiner further states that Roberts teaches the automatic transfer of a deed relating to real property and that it would have been obvious for one of ordinary skill in the art at the time of the invention to modify the inventive concept of Minton to include Roberts.

The Examiner also states that the combination of Minton and Roberts fails to teach an inventive concept with means for designating additional information for the real property including a physical description and a market value of the real

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property. The Examiner cites Dugan as teaching an inventive concept with means for designating additional information for real property including a physical description and a market value of the real property. The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Minton and Roberts to include Dugan's inventive concept.

Applicant respectfully submits that this rejection is overcome by this Amendment.

#### Summary of the Invention

As amended, Applicant's claim 1 recites a bartering system for implementing barter between a plurality of parties, each barter having one or more classes of items available for barter, comprising: means for creating a barter order including: means for designating a selected quantity of a first class of items to be bartered; means for designating a date range for transferring title of said first class of items to be bartered, whereby a barterer may elect between deferring the transfer of title to said first class items to a time after the barter order is used to complete a barter transaction and electing to transfer title along with the completion of a barter transaction; means for designating a barter value of said first class of items to be bartered; means for designating a second class of items to be acquired concurrent

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with the sale of said first class of items; **each** of said first and second class of items including real property; means for designating additional information for the real property including a physical description and a market value of the real property; means for posting barter orders via an Internet connection to a barter database; means for displaying via an Internet connection posted barter orders whose first class of items match said second class of items of a barterer's order; means for selecting a posted barter order from said displaying means to effectuate a barter transaction which combines a barterer's barter order with the selected posted order; **means for determining a payment amount to be paid pursuant to the barter transaction, the payment amount based upon a difference in value between the real properties in the barter transaction;** and means responsive to the execution of the barter transaction for automatically initiating the transfer of a deed to real property. **[Emphasis added** to distinguish the amended elements of the claimed invention.]

Applicant's claim 1 thus recites barter orders including barter transactions comprising the execution of a barterer's barter order with a posted barter order, a barter transaction thus involving the transaction of multiple barter orders. As amended, claim 1 recites the bartered items as each including real property (see support throughout Applicant's specification and drawing Figures), the barter system including means for determining a payment amount to be paid to balance

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any difference in value between the real properties to be exchanged in the barter transaction (see support on page 59 of Applicant's specification).

### Applicant's Arguments

Applicant respectfully submits that Minton does not show or suggest a barter order system including barter orders and a barter order transaction of the type taught and claimed by Applicant. More particularly, Minton recites a private trading system for the otherwise conventional trading of securities, i.e., selling, buying, and market-making with conventional buy and sell orders. This is clear throughout Minton; reference for example paragraphs 0053, 0055, 0057, 0068, and 0098. Minton fails to show or suggest Applicant's claimed barter order system and particularly fails to show or suggest Applicant's claimed system for bartering real property with payments.

Roberts shows methods for investing in real estate wherein a portfolio of investment real estate is divided into a plurality of tenant-in-common deeds. Holders of the deed shares receive a guaranteed income stream and yearly depreciation without having to maintain or manage the real estate. This provides certain tax benefits to the holders. Roberts does not show or suggest the barter order system as taught and claimed by Applicant.

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Thus, neither Minton nor Roberts, separately or in combination, show or suggest Applicant's claimed barter order system for real property.

The third reference applied by the Examiner, Dugan, shows a real estate appraisal method that purports to standardize real property marketing analysis by using pre-adjusted appraised, comparable sales. Dugan does show the provision of information including physical information and market value information for real property. Dugan, however, adds nothing to show or suggest Applicant's amended claim 1 directed to a system for bartering real estate properties with payments.

Thus, none of the references, either singly or in combination, show or suggest Applicant's claimed bartering system. None show or suggest Applicant's claimed bartering system for bartering real properties. Further, none show or suggest Applicant's claimed bartering system for bartering real properties with a payment based on the difference in value between the bartered real properties.

### Summary

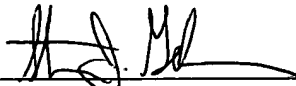
Applicant respectfully submits that pending claims 1-4 and 6 clearly distinguish over the art of record. It is respectfully submitted that the amendments and remarks made herein place pending claims 1-4 and 6 in condition for allowance. Accordingly, entry of this amendment and reconsideration and allowance of pending claims 1-4 and 6 are respectfully requested.

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If the Examiner does not believe that the claims are in condition for allowance, the Examiner is respectfully requested to contact the undersigned at 215-568-6400.

Respectfully submitted,

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